

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today  
(1) was not written for publication in a law journal and  
(2) is not binding precedent of the Board.

Paper No. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte STEVEN M. PERSON

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Appeal No. 96-3650  
Application 08/222,547<sup>1</sup>

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ON BRIEF

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Before GARRIS, WARREN, and OWENS, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection  
of claims 16 through 22 which are all of the claims remaining

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<sup>1</sup> Application for patent filed April 1, 1994. According  
to appellant, this application is a division of Application  
08/078,427, filed June 17, 1993.

Appeal No. 96-3650  
Application No. 08/222,547

in the application.

The subject matter on appeal relates to a method for preventing the migration of air bubbles from a first chamber region of a reservoir to a second chamber region of the reservoir comprising the step of partitioning the reservoir with a fluid permeable member which defines a fluid permeable boundary between the first chamber region and the second chamber region as set forth in independent claim 16. The appealed subject matter also relates to a method for applying liquid material from a supply to an applicator roller comprising a number of steps which are set forth in independent claim 19. A copy of the appealed claims appear in the Appendix of the appellant's brief.

The references relied upon by the examiner as evidence of obviousness are:

Zimmer	4,538,541	Sep. 3, 1985
Bruno	4,821,672	Apr. 18, 1989

Claims 16 through 22 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bruno in view of Zimmer. In the last paragraph on page 4 of the answer, the examiner expresses his obviousness conclusion in the following manner:

It would have been obvious to one having

Appeal No. 96-3650  
Application No. 08/222,547

ordinary skill in the art to have added a brush to the coating liquid reservoir of Bruno because Zimmer teaches that transfer roller operations (such as that of Bruno) are susceptible to foaming which deteriorates coating uniformity and the addition of a brush prevents air entrapment and the resulting foam formation. Thus, it would have been obvious to the skilled artisan that the addition of a brush to the Bruno process would prevent foaming and ensure uniform coating application.

#### OPINION

We can not sustain this rejection.

As correctly argued by the appellant and graphically displayed in Exhibit A of the reply brief, if Zimmer's brush were added to the reservoir of Bruno as proposed by the examiner, the resulting method would not include the appellant's claimed step of "partitioning said reservoir with a fluid permeable member which defines a fluid permeable boundary between the first chamber region and the second chamber region" (independent claim 16) or the step of "partitioning the reservoir cavity into a first reservoir chamber and a second reservoir chamber with a fluid permeable member" (independent claim 19). Stated more simply, the examiner's rejection can not be sustained because, even if the applied references were combined in the manner proposed, the resulting combination would not correspond to the here claimed

Appeal No. 96-3650  
Application No. 08/222,547

invention.

Other issues

The appellant and the examiner should consider and address on the record whether appealed claims 16 and 17 distinguish over Zimmer. This is because the method of Zimmer, as represented by the Figure 10 embodiment, includes partitioning a reservoir 603 with a fluid permeable member 615 which defines a fluid permeable boundary between a first chamber region, which is immediately above member 615, and a second chamber region, which is immediately below member 615, whereby the migration of air bubbles from the first chamber region to the second chamber region is prevented (e.g., see lines 58 through 62 in column 6) in accordance with the appealed claim 16 method. As for appealed claim 17, the aforementioned method of Zimmer would necessarily and inherently include a pressure differential across the fluid permeable member 615 by virtue of the difference between the hydrostatic pressure of the fluid above member 615 and the greater hydrostatic pressure of the fluid below member 615.

SUMMARY

Appeal No. 96-3650  
Application No. 08/222,547

We have not sustained the examiner's section 103  
rejection of claims 16 through 22 as being unpatentable over  
Bruno in view of Zimmer.

Appeal No. 96-3650  
Application No. 08/222,547

The decision of the examiner is reversed.

REVERSED

	Bradley R. Garris	)	
	Administrative Patent Judge	)	
		)	
		)	
		)	
	Charles F. Warren	)	BOARD OF
PATENT	Administrative Patent Judge	)	APPEALS AND
		)	INTERFERENCES
		)	
		)	
	Terry J. Owens	)	)
	Administrative Patent Judge	)	

tdc

Appeal No. 96-3650  
Application No. 08/222,547

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